

Oregon CZARA Program Disapproval Decision Sequencing

Basic Steps

01.08.2015

Wwstelle

1. EPA/NOAA disapprove program at end of January, 2015 thru publication of FR Notice with basic “clean” description of basis for decision as per regulatory requirements, noting forestry, landslides, pesticides, legacy roads etc. as significant sources of non-point loadings.
2. EPA/NOAA send a follow up letter to Oregon in February describing a matrix of topics and commitments we believe would rectify program deficiencies, together with specific interim milestones and schedules. The outer schedule for addressing issues would be the end of fiscal year 2016. Note: Please clarify whether this is December 2016, or June 2016?
3. Oregon sends EPA/NOAA letter towards end of February describing its commitments to topics and schedules through Board of Forestry rulemaking and other steps.

4. **Ex. 5 - Deliberative**

5. EPA/NOAA track progress on implementing measures and provide technical assistance over course of implementing period.

6. **Ex. 5 - Deliberative**

Variants and Other Details

1. **Ex. 5 - Deliberative**

2. Filling in details on the remedial measures, milestones and schedules per continued discussions with Oregon and other parties.

3. **Ex. 5 - Deliberative**

COMMENTS FROM MANAGEMENT TEAM (Christine, Lynda, and Joelle)

1. Both NOAA and EPA are aligned disapproving the program at the end of January.

CHALLENGE: A complete separation of making a statement about the penalties in the FRN likely isn't possible. The penalties are required in the statute, so the agencies likely need to address those publicly. The penalties were also included as part of the FRN noticing NOAA and EPA's proposed disapproval last December 2013, and in associated press releases.

POTENTIAL PATH FORWARD (Needs legal review)

- a. Distribute the FRN with a notice of NOAA and EPA disapproval
- b. Include a statement about what the statute calls for in relation to penalties. **Ex. 5 - Attorney Client**
- c. **Ex. 5 - Attorney Client** **Ex. 5 - Attorney Client**
- d. NOAA and EPA need a clear statement to the press when asked about penalties which could be: "The statute calls for NOAA and EPA to apply penalties in their next funding agreements" **Ex. 5 - Deliberative**

Ex. 5 - Attorney Client

2. NOAA and EPA are aligned that milestones and schedules should be set with the state after the disapproval is sent in January. The end of February is good timing given the Governor's desire for progress in rulemaking and an Executive Order.

CHALLENGE: **Ex. 5 - Deliberative**

Ex. 5 - Deliberative

POTENTIAL PATH FORWARD (Pending legal discussions):

- a. **Ex. 5 - Attorney Client**
- b.

3. **Ex. 5 - Deliberative**

CHALLENGE: Again, the idea of the 2016 schedule is new to managers, staff, and attorneys this week. Unclear of a path forward.